


Legal Counsel Approval 

RL15-083

Introductory No. O15-31

Permanent No. **\*\*VETOED\*\***



THE COUNCIL OF THE CITY OF BINGHAMTON  
STATE OF NEW YORK

Date: May 20, 2015

Sponsored by Council Members: Motsavage, Mihalko, Matzo, Berg, Papastrat

Introduced by Committee: Public Works/Parks & Recreation

ORDINANCE

*entitled*

AN ORDINANCE AMENDING THE  
BINGHAMTON JOHNSON CITY JOINT  
SEWAGE TREATMENT PLANT FACILITIES  
INTERMUNICIPAL AGREEMENT X (MASTER  
IMA)

WHEREAS, the City of Binghamton ("City") and the Village of Johnson City ("Village") adopted a "Master IMA" (Intermunicipal Agreement X) organizing the original agreement and all amendments into a single document and exhibits; and

WHEREAS, the City and Village wish to amend the Master IMA, Exhibit IMA No. VIII, paragraph 6 as provided herein.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular does hereby ordain as follows:

Section 1. Pursuant to the Master IMA, Section 31. *Modifications*, the Council of the City of Binghamton hereby agrees to amend the Master IMA, Exhibit IMA No. VIII, paragraph 6, as follows:

6. There is no compensation for being Lead Agency. Any other costs incurred for service as Lead Agency cannot be charged to the Phase III Remedial Project, the Sewage Board, or the Village of Johnson City. This would not preclude the City from applying for and accepting grant funds to offset the administrative costs incurred by it as Lead Agency, or from pursuing claims for recovery of such costs from appropriate parties other than the Village and the Sewage Board, including through litigation.

ADD: Notwithstanding the forgoing, the City may retain the services of Project Manager, a professional engineer, as an employee of the City of Binghamton as a "Project Manager" for the Phase III Remediation Project. The Project Manager will maintain hourly time records. They will be paid \$75 per hour and otherwise receive benefits from the City of Binghamton commensurate with his position. That the total compensation from the City of Binghamton in 2015 will not exceed \$72,000, including benefits, and in 2016 will not exceed \$100,000, including benefits. The cost of the Project Manager's services may be paid by the City in the first instance, but will be included in the project budget for the Phase III Remediation Project, budget lines HX8150.500100.J11FF (Flood) and HX8150.500100.J11NN (Non-Flood). That the Project Manager will be employed by the City of Binghamton in this position for not more than 18 months. The Owners agree to amend the authorizing Bond Ordinances for this purpose, if necessary.

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Sponsored by City Council Members:  
Motsavage, Mihalko, Matzo, Berg, Papastrat

AN ORDINANCE AMENDING THE BINGHAMTON  
JOHNSON CITY JOINT SEWAGE TREATMENT  
PLANT FACILITIES INTERMUNICIPAL AGREEMENT  
X (MASTER IMA)

The within Ordinance was adopted by the Council of  
the City of Binghamton.

Date June 3, 2015

City Clerk Jerry Pellis

Date Presented to Mayor June 4, 2015

Date Approved \_\_\_\_\_

Mayor \_\_\_\_\_

Motion to reconsider Introductory O15-31.  
Moved by Webb, seconded by Motsavage.  
Ayes: Motsavage, Mihalko, Webb, Papastrat,  
Matzo, Berg  
Nays: Rennia

"Final Vote"

	Ayes	Nays	Abstain	Absent
Motsavage	J			
Mihalko	J			
Rennia		J		
Webb	J			
Papastrat	J			
Matzo	J			
Berg	J			
Total	6	1	0	0

☐ Code of the City of Binghamton

☒ Adopted ☐ Defeated

6 Ayes 1 Nays 0 Abstain 0 Absent

Motion to amend the legislation where it  
identifies a name and replace it with  
Project Manager.

Moved by Webb, seconded by Mihalko.  
Ayes: Motsavage, Mihalko, Webb, Papastrat,  
Matzo, Berg  
Nays: Rennia

Motion to approve legislation as amended.  
Moved by Motsavage, seconded by Mihalko.  
Motion carried. See "Final Vote".

Veto  
See Attached



# MEMORANDUM OFFICE OF THE MAYOR

*Richard C. David, Mayor*  
*Jared M. Kraham, Deputy*  
*Donna Ferranti, Secretary*

**DATE:** June 11, 2015  
**TO:** City Council  
**CC:** Jeremy Pelletier, City Clerk  
Lai Huynh, Deputy City Clerk  
Ken Frank, Corporation Counsel  
Chuck Shager, Comptroller  
Gary Holmes, Wastewater Treatment Plant Project Manager  
**FROM:** Richard C. David, Mayor  
**RE:** Veto — Ordinance 015-31, An Ordinance amending the Binghamton Johnson City Joint Sewage Treatment Plant Facilities Intermunicipal agreement X (Master IMA)

I have vetoed Introductory Ordinance 15-31 as amended, and request City Council pass Introductory Ordinance 15-31 as originally proposed.

As discussed with Council in April, the Project Manager position is established under Section 64 (3) of the New York State Civil Service law for temporary appointments and has been approved by the Civil Service Commission. Under this section "...a temporary appointment, without examination, when the person appointed will render professional, scientific, technical or other expert services (1) on an occasional basis or (2) on a full-time or regular part-time basis in a temporary position established to conduct a special study or project for a period not exceeding eighteen months."

Mr. Holmes has unique professional and technical expertise regarding rehabilitation of the Joint Sewage Treatment Plant; this is why he was specifically named in the legislation. Moreover, the Village of Johnson City passed the legislation specifically for Mr. Holmes. If a time comes



when the City and Village wish to retain a new Project Manager as part of the IMA, then both the City and Village should approve that person. I urge you to pass the original ordinance as soon as possible so that the costs associated with this position can be allocated in the same manner as all of the other professional costs for this project, rather than having Binghamton taxpayers shoulder the entire burden.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard C. David". The signature is written in dark ink and is positioned below the word "Sincerely,".

Richard C. David

Mayor

